

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

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**GARY GILLARD,**

**Plaintiff,**

**vs.**

**9:09-CV-0431 (TJM/DEP)**

**MICHAEL ROVELLI, *et al.*,**

**Defendants.**

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**THOMAS J. McAVOY,  
Senior United States District Judge**

**DECISION & ORDER**

This *pro se* action brought pursuant to 42 U.S.C. § 1983 was referred to the Hon. David E. Peebles, United States Magistrate Judge, for a Report and Recommendation pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3(c). No objections to the Report-Recommendation and Order dated August 30, 2010 have been filed, and the time to do so has expired. Furthermore, after examining the record, this Court has determined that the Report-Recommendation and Order is not subject to attack for plain error or manifest injustice. Accordingly, the Court adopts the Report-Recommendation and Order for the reasons stated therein.

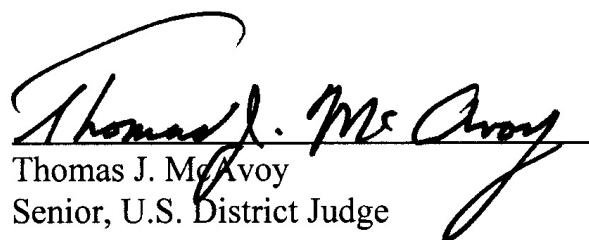
It is therefore,

**ORDERED** that Defendants' motion to dismiss (Dkt. # 27 ) is **GRANTED**, and all claims in this action with the exception of those against Hamel and McNally are

**DISMISSED** with leave to replead consistent with Magistrate Judge Peebles' Report and Recommendation. See Rep. Rec., p. 23, n. 7.

**IT IS SO ORDERED**

DATED: December 13, 2010

  
Thomas J. McAvoy  
Senior, U.S. District Judge